

REMARKS

Applicant has carefully reviewed the Application in light of the Office Action mailed February 24, 2009. At the time of the Office Action, Claims 1-75 were pending in the Application and stand rejected. Applicant amends several Independent Claims without prejudice or disclaimer. The amendments to these claims are not the result of any Prior Art reference and, thus, do not narrow the scope of any of the claims. Furthermore, the amendments are not related to patentability issues and only further clarify subject matter already present. All of Applicant's amendments have only been done in order to advance prosecution in this case. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Section 102 Rejection

The Examiner rejects Claims 1-75 under 35 U.S.C. §102(e) as being anticipated by U.S. Publication No. 2003/0069016 issued to Bahl et al. (hereinafter "*Bahl*"). This rejection is respectfully traversed for the following reasons.

*Independent Claim 1 is Allowable over Bahl*

Applicant respectfully reminds the Examiner that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.<sup>1</sup> In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claims" and "[t]he elements must be arranged as required by the claim."<sup>2</sup> In regard to inherency of a reference, "[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency

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<sup>1</sup> *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131.

<sup>2</sup> *Richardson v. Suzuki Motor Co.*, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 USPQ 2d 1566 (Fed. Cir. 1990); MPEP §2131 (*emphasis added*).

of that result or characteristic.”<sup>3</sup> Thus, in relying upon the theory of inherency, an Examiner must provide a basis in fact and/or technical reasoning to support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.<sup>4</sup>

Independent Claim 1, as amended, recites “...the first end machine is configured to send an update address request to a gateway providing connectivity to the first end machine, the update address request indicating the new address is to be bound to the SA, the first end machine being further configured to receive an acceptance message from the gateway, the acceptance message signifying that the new address is bound to the SA such that a flow is facilitated by the second machine using the SA and using the first set of attributes.”

No reference of record, including *Bahl*, offers such an architecture. First, no reference actually offers an update address request to a gateway providing connectivity to the first end machine. Second, no reference offers the update address request **indicating the new address is to be bound to the SA**. Third, no disclosure tendered by the Examiner provides for the first end machine being further configured to receive an acceptance message from the gateway, the acceptance message signifying that the new address is bound to the SA such that a flow is facilitated by the second machine using the SA and using the first set of attributes. At the passages cited by the Examiner for potentially relevant discussions related to these limitations (e.g., Paragraphs #41-43 of *Bahl*) there is simply nothing that discloses such capabilities. Again, these important limitations are provided for in Independent Claim 1, but no reference of record includes such elements. Applicant has reviewed *Bahl* in its entirety and finds nothing that would be relevant to such operations.

The other Independent Claims recite limitations similar, but not identical, to these limitations and, therefore, are allowable using a similar rationale. Additionally, the corresponding dependent claims from these Independent Claims are also patentably distinct for

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<sup>3</sup> MPEP §2112 (citing *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ 2d 1955, 1957 (Fed. Cir. 1993) (*emphasis in original*)).

<sup>4</sup> MPEP §2112 (citing *Ex Parte Levy*, 17 USPQ 2d 1461, 1464 (Bd. Pat. at App. and Inter. 1990) (*emphasis in original*)).

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analogous reasons. Notice to this effect is respectfully requested in the form of a full allowance of these claims.

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CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

A Petition for One-Month Extension of Time is being filed simultaneously herewith. The one-month extension fee in the amount of \$130 is being paid concurrently herewith via the Electronic Filing System (EFS) by way of Deposit Account No. 50-4889 authorization. No additional fees are believed due. However, please apply any other charges or credit any overpayment to Deposit Account No. 50-4889 of PATENT CAPITAL GROUP, referencing the attorney docket number referenced above.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact Thomas J. Frame at 214-823-1241.

Respectfully submitted,

Patent Capital Group  
Attorneys for Applicant

/Thomas J. Frame/

Thomas J. Frame  
Reg. No. 47,232

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**Customer No. 86421**